

**CITY OF MILWAUKEE
OFFICE OF SMALL BUSINESS DEVELOPMENT
PROVISIONS FOR
SMALL BUSINESS ENTERPRISE (SBE) PARTICIPATION**

General

- A. In accordance with Chapter 370 Section 5 of the Milwaukee Code of Ordinances, the Department of Administration-Business Operations Division-Procurement Services Section (Procurement Services) must utilize small business enterprises in their contracting activities. The participation requirements for small businesses (SBEs) expressed as a percentage of the total dollars annually expended are:

- Construction 25%
- Goods and services 25%
- Professional services 18%

These requirements shall be reviewed and adjusted annually with the approval of the common council. In an effort to meet these requirements, the City Purchasing Director, as contracting officer for the City, requires all bidders to utilize SBEs as subcontractors and/or material suppliers on all contracts, when appropriate.

As of February 18, 2013, the City has suspended (i.e., will no longer apply) the portions of Chapter 370 which establish specific race- and gender-based participation goal percentages for City contracts. The particular subsections of Chapter 370 which were suspended on February 18 are as follows:

- 370-15(1)(a) and (b): construction contract participation goals for minority owned business enterprises (“MBEs”)
- 370-15(2)(a) and (b): goods and services contract participation goals for MBEs
- 370-21 (1) and (2): construction and goods and services contract participation goals for women-owned business enterprises (“WBEs”)

Bidders are encouraged to review Chapter 370 in its entirety. For a full copy of Chapter 370, please visit the website for the Office of Small Business Development at www.milwaukee.gov/osbd.

- B. The contractor shall prepare and submit accurate and timely SBE utilization forms and reports. The reports shall include, but not be limited to:
- Contractor Compliance Plan (Form A)
 - Monthly Report (Form D), and
 - SBE Subcontractor Payment Certification (Form E)

Failure to submit the forms and/or reports may result in disqualification of future bids, delay of payments, or other sanctions deemed appropriate. The final contract payments will not be made until a final Monthly Report (Form D) and SBE Subcontractor Payment Certification (Form E) are on file.

- C. During the performance of this contract, Procurement Services reserves the right to conduct compliance reviews. If the contractor is not in compliance with the specifications, Procurement Services will notify the contractor in writing of the corrective action that will bring the contractor into compliance. If the contractor fails or refuses to take corrective action as directed, except in the case of fraudulent information, Procurement Services may take one or more of the following actions listed below:
- Terminate or cancel the contract, in whole or in part.
 - Debarment of the contractor from bidding.
 - Withhold payments on the contract.
 - Any other remedy available to the City by law or in equity.

SBE Utilization Requirements

It is the policy of the City of Milwaukee that Small Businesses have the maximum feasible opportunity to participate in the performance of City contracts. Therefore:

- A. The Bidder agrees to carry out this SBE policy through award of subcontracts to Small Business Enterprises to the fullest extent consistent with the efficient performance of this contract.
- B. Only those companies which are certified by the City of Milwaukee Office of Small Business Development may be utilized to meet the participation requirements established by Chapter 370. The Office of Small Business Development can supply the bidder with a list of certified companies.
- C. Those businesses receiving certification must have their business located in Milwaukee, Ozaukee, Washington, or Waukesha County.
- D. The bidder agrees that pursuant to Chapter 370 Section 5, the following requirements are adopted by the City for increasing the level of small business enterprise participation in City contracts:
 - o Construction: 25%
 - o The purchase of goods and services: 25%
 - o The purchase of professional services: 18%

At least 18% (Professional Services) or 25% (Goods & Services, Construction Services) of the total dollar value of the contract shall be subcontracted to Small Business Enterprises.

Any adjustments to the aforementioned required levels of participation will be documented on the Compliance Plan (Form A) and/or in the form of an addendum, otherwise the contract requirements are as herein stated.

All Small Business Enterprise (SBE) contract requirements will continue to be set on a per contract basis. Every attempt will be made to establish realistic and achievable SBE requirements. Individual contract requirements will be set based upon the dollar value of the project, the availability of certified SBEs to perform the work that is to be subcontracted, and the availability of SBEs by certification category.

- E. The bidder is required to subcontract to small business firms a share of the work consistent with the contract requirements. In some cases, a Contractor may be able to fulfill a portion of the participation requirements; however, the Contractor will be required to meet the rest of the participation requirements.
- F. The bidder must submit a list of the proposed subcontractors on the Compliance Plan (Form A), sign the form, and include the number of contract dollars to be awarded to each proposed SBE subcontractor. A final executed copy of the Compliance Plan, with the SBE's signature(s), must be included as a part of the bid response.
- G. The Bidder should only use those small business enterprises listed by or confirmed in writing through the OSBD to receive full credit. The successful bidder shall cooperate with the City of Milwaukee and the OSBD in studies and surveys of the Contractor's small business procedures and practices.
- H. The successful Bidder shall maintain records showing:
 - Awards to small businesses
 - Specific efforts to identify and award subcontracts to small businesses, and
 - Payments to small businesses.
- I. The successful Bidder shall submit Form D (attached) of subcontracting to known small businesses in such form and manner and at such time as the City of Milwaukee or the Office of Small Business Development may prescribe.

- J. Form D (monthly reports) shall be provided monthly and/or at the request of the OSBD.
- K. Upon successful completion of a contract, the successful bidder shall submit a completed Form E (attached) signed by all SBE subcontractors that were actively engaged on the respective contract. A completed Form D (monthly report) is required in addition to the completed Form E.
- L. The OSBD shall have the right to review and audit records, receipts and documents maintained by the Contractor, upon reasonable notice.
- M. The contractor is required to participate in mandatory training on OSBD's payment monitoring software within thirty (30) days of contract award. Please contact the Office of Small Business Development (OSBD).
- N. Questions relating to the SBE Program should be directed to the Office of Small Business Development.

Contact Information	
<p><u>Procurement Services</u> City Hall, Room 601 200 East Wells Street Milwaukee, WI 53202</p> <p>procurement.services@milwaukee.gov</p> <p>Phone: 414-286-3501 General Fax: 414-286-5976</p> <p>www.city.milwaukee.gov > Departments > Procurement Services</p>	<p><u>Office of Small Business Development</u> City Hall, Room 606 200 East Wells Street Milwaukee, WI 53202</p> <p>Phone: 414-286-5553 Fax: 414-286-8752</p> <p>www.city.milwaukee.gov > Departments > Office of Small Business Development</p>

Shared\FORMS\OSBD Provisions, 20130228.docx